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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,572	07/01/2004	Akihiro Shimada	Q81988	5252
65565	7590	04/30/2007		
SUGHRUE-265550			EXAMINER	
2100 PENNSYLVANIA AVE. NW			NGUYEN, HANH N	
WASHINGTON, DC 20037-3213				
			ART UNIT	PAPER NUMBER
			2834	

  

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/30/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/500,572

Applicant(s)

SHIMADA, AKIHIRO

Examiner

Nguyen N. Hanh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Amendments filed on 2/8/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-5 is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Traxler et al. in view of Muszynski.

Regarding claim 1, Traxler et al. disclose a magnetic bearing apparatus comprising: a rotatable rotary member (2.5 in Fig. 2) in which a radial magnetic bearing rotor (of radial magnetic bearing 2.2.1 and 2.2.2) and an axial magnetic bearing disc (of axial magnetic bearing 2.2.3) are secured to a rotary shaft; electromagnets that are arranged around said rotary member via a small gap; and a case housing them (Fig. 2), wherein said apparatus further comprises: cooling wind producing means for producing cooling wind of a low temperature and a cooling wind flow path through which the low-temperature cooling wind produced by said cooling wind producing means is to flow into said magnetic bearing apparatus (Col. 1, lines 44-55 and Col. 5, lines 43-48). Traxler et al. fail to show the cooling wind producing means for producing cooling wind of a low temperature with using a driving force of the rotary member.

However, Muszynski discloses an electric machine wherein the cooling wind producing means (100) for producing cooling wind of a low temperature with using a

driving force of the rotary member (110) for the purpose of reducing noise cause by flow of ventilating air.

Since Traxler et al. and Muszynski are in the same field of endeavor, the purpose disclosed by Muszynski would have been recognized in the pertinent art of Traxler et al.

It would have been obvious at the time the invention was made to a person having an ordinary skill in the art to modify Traxler et al. by forming the cooling wind producing means for producing cooling wind of a low temperature by using driving force of the rotary member as taught by Muszynski for the purpose of reducing noise cause by flow of ventilating air.

2. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Traxler et al. in view of Muszynski and further in view of Millman.

Regarding claim 2, Muszynski discloses the cooling wind producing means comprises: high-speed air flow producing means (100 in Fig. 1) for producing a high-speed air flow with using the driving force of said rotary member; converting means (130) for converting the high-speed air flow produced by said high-speed air flow producing means, to a vortex flow (Col. 3, lines 60-62); an air flow path through which the high-speed vortex flow converted by said converting means is to flow (Fig. 2). Traxler et al. and Muszynski fail to show a control valve which is disposed on a side of said air flow path opposite to said converting means.

However, Millman discloses an apparatus having cooling structure using vortex flow (Col. 6, lines 65-68) comprising a control valve (59 in Fig. 1 and Col. 2, lines 45-

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50) which is disposed on a side of said air flow path opposite to said converting means for the purpose of varying the effective flow area (Col. 2, lines 51-53).

Since Traxler et al., Muszynski and Millman are in the same field of endeavor, the purpose disclosed by Millman would have been recognized in the pertinent art of Traxler et al. and Muszynski.

It would have been obvious at the time the invention was made to a person having an ordinary skill in the art to modify Traxler et al. and Muszynski by using a control valve which is disposed on a side of said air flow path opposite to said converting means as taught by Millman for the purpose of varying the effective flow area.

#### ***Allowable Subject Matter***

3. Claims 3-5 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not show a magnetic bearing apparatus comprising fins which are disposed on said rotary shaft, and which produces an axial air flow by a driving force of said rotary shaft; a generator which is fixed with forming a predetermined gap with respect to said fins, and which produces a high-speed vortex flow; a tube through which the high-speed vortex flow produced by said generator is to flow.

#### ***Response to Arguments***

5. Applicant's arguments filed on 2/8/2007 have been fully considered but they are not persuasive.

Regarding claim 1, the Applicant's argument is on the ground that the references cited by the Examiner do not disclose "electromagnets that are arranged around said rotary member via a small gap" and the rotary member of Muszynski does not constitute a magnetic bearing apparatus, combining Muszynski with Traxler would simply produce a magnetic bearing apparatus with a separated apparatus for providing ventilation to said magnetic bearing apparatus. The Examiner respectfully disagrees with the Applicant. Fig. 2 of Traxler clearly shows electromagnets (core and windings) that are arranged around said rotary member (the core surrounds shaft 2.5) via a small gap. Even the disclosure does not mention the gap is a small gap, the drawing is used to describe the invention and the drawing clearly shows the gap is very small. Moreover, even the cooling means of Muszynski does not constitute the magnetic bearing apparatus, it is obvious to use the cooling means of Muszynski in Traxler et al. because the Examiner does not try to incorporate two different machines into a new machine. The Examiner only uses the teaching of Muszynski to apply the cooling means (fan blades, cooling passage) to the magnetic bearing apparatus.

Regarding claim 2, In response to applicant's argument that the reference the Examiner relies on, Millman is nonanalogous art (directed to totally different technology area than that of the other applied reference), it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the prior art reference is reasonably

pertinent to the particular problem with which the applicant was concerned because the control valve to control the flow speed of the wind is important in process of producing cooling winds. For the reasons explained above, the rejection is still deemed proper.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Information on How to Contact USPTO***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh N Nguyen whose telephone number is (571) 272-2031. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg, can be reached on (571) 272-2044. The fax phone numbers for the organization where this application or proceeding is assigned are (571)

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273-8300 for regular communications and (571) 273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

HNN

April 20, 2007

A handwritten signature in black ink, appearing to read "Dangle L. H.", is written in a cursive style.

DANGLE  
PRIMARY EXAMINER